

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA

Ergun M. Caner,	:	No.: 6:14-cv-004
Plaintiff	:	
v.	:	Civil Action - Law
	:	Jury Trial Demanded
Jonathan Autry,	:	(Electronically Filed)
Defendant	:	

**Motion to Stay Discovery Pending Dispositive Motions**

AND NOW comes the Defendant Jonathan Autry by and through his counsel, Joshua M. Autry, Esquire, and asks this Court to stay discovery pending resolution of the dispositive motions:

1. Plaintiff originally filed this action in the Northern District of Texas against Defendant Jonathan Autry as well as against Defendant Jason Smathers.
2. The Northern District of Texas severed the case and transferred the claims against Jonathan Autry to this Court.
3. There are still two pending dispositive motions (Docket #28 and Docket #29), which Defendants Autry and Smathers jointly filed.
4. As of this date, the Northern District of Texas has not ruled on either motion as to Jason Smathers.
5. There is a substantial chance that this Court's rulings on the dispositive motions could prevent the need for discovery altogether if this Court terminates the case.
6. Jonathan Autry has not even filed an answer in this matter because his deadline to do so is tolled by the dispositive motions—either of which would terminate the case.

7. For these reasons, Jonathan Autry believes that discovery at this point would be premature and asks this Court to stay discovery pending the rulings on the dispositive motions.

8. Discovery would also be burdensome on Jonathan Autry who lacks the financial resources to hire counsel for his defense. Undersigned counsel, Jonathan's younger brother, is representing him *pro bono* in the hope of recovering legal fees as a prevailing party.

9. Dr. Caner opposes this request. It is worth noting, however, that Dr. Caner—although he opposed Mr. Smathers's similar request to stay discovery—failed to file any response.

10. Although not binding on this Court, the Northern District of Texas recognized that “the disposition of the pending motions to dismiss may dispense of the need for any discovery” and granted the motion. *See Caner v. Smathers*, N.D. Tex. NO. 4:13-CV-494-Y, Docket #50 (Feb. 18, 2014).

Wherefore, for the reasons stated herein, Jonathan Autry respectfully requests that this Court postpone discovery pending resolution of the dispositive motion.

**CLYMER MUSSER & CONRAD, P.C.**

/s/ Joshua M. Autry  
**Joshua M. Autry, Esquire**  
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Dated: April 4, 2014

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**CERTIFICATE OF SERVICE**

I hereby certify that on the date listed below I electronically filed the foregoing with the Court using the CM/ECF system, which sent notification of such filing to the following person(s) at the following email address(es):

David C. Gibbs  
[dgibbs@gibbsfirm.com](mailto:dgibbs@gibbsfirm.com)

Respectfully Submitted,  
Clymer Musser & Conrad, P.C.

*/s/ Joshua M. Autry*  
Joshua M. Autry, Esquire

Dated: April 4, 2014